

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

ALIGN TECHNOLOGY, INC.,

Plaintiff,

v.

CLEARCORRECT OPERATING, LLC,
CLEARCORRECT HOLDINGS, INC., &
INSTITUT STRAUMANN AG,

Defendants

Civil Action No. 6:24-cv-00187-
ADA-DTG

JURY TRIAL DEMANDED

CASE READINESS STATUS REPORT

Plaintiff Align Technology, Inc. (“Align”) and Defendants ClearCorrect Operating, LLC, ClearCorrect Holdings, Inc. (collectively, “ClearCorrect”), and Institut Straumann AG (“Institut Straumann”)¹ hereby provide the following status report.

SCHEDULE

A scheduling order has not yet been filed. *Markman* and trial dates are not yet proposed.

FILING AND EXTENSIONS

Align filed its Complaint on April 11, 2024. ECF No. 1. The Court granted two extensions to respond for ClearCorrect for a total of 45 days. *See* ECF Nos. 19, 21 (by Text Order). The Court granted one extension to respond for Institut Straumann of 14 days. *See* ECF No. 22 (same).

RESPONSE TO THE COMPLAINT

On June 20, 2024, Institut Straumann made a limited and special appearance to file a motion to dismiss Align’s complaint pursuant to Federal Rule of Civil Procedure 12(b)(2) and ClearCorrect filed a motion to dismiss Align’s complaint pursuant to Federal Rule of Civil

¹ Institut Straumann AG has entered a limited and special appearance to file its motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(2). Dkt. 30. The parties agree that, by joining this status report, Institut Straumann does not waive the arguments raised in its motion.

Procedure 12(b)(6). *See* ECF Nos. 30 & 31. Institut Straumann, furthermore, conditionally joins ClearCorrect’s motion to dismiss to the extent that Institut Straumann’s motion under Rule 12(b)(2) is denied.

PENDING MOTIONS

There are two pending motions:

- 1) Institut Straumann’s Sealed Motion to Dismiss Complaint Pursuant to Fed. R. Civ. P. 12(b)(2). ECF No. 30
- 2) ClearCorrect’s Sealed Motion to Dismiss Complaint Pursuant to Fed. R. Civ. P. 12(b)(6). ECF No. 31.²

RELATED CASES IN THIS JUDICIAL DISTRICT

There are no pending related cases in this Judicial District. *Align Technology, Inc. v. 3Shape A/S et al*, which is closed, involved one common asserted patent (U.S. Patent No. 10,791,936). 6:20-cv-00979-ADA (W.D. Tex.) (Albright, J.).

IPR, CBM, AND OTHER PGR FILINGS

There are no known pending IPR, CBM, or other PGR filings directed to the Asserted Patents.

NUMBER OF ASSERTED PATENTS AND CLAIMS

Align has asserted 9 patents. The Asserted Patents are U.S. Patent Nos. 10,973,613 (the “613 patent”), 11,154,384 (the “384 patent”), 11,648,090 (the “090 patent”), 11,648,091 (the “091 patent”), 8,038,444 (the “444 patent”), 10,456,217 (the “217 patent”), 10,524,879 (the “879 patent”), 11,369,456 (the “456 patent”), and 10,791,936 (the “936 patent”). Align has not yet served preliminary infringement contentions but expects to assert approximately 150 claims.

Align also has pleaded claims for false advertising, unfair competition, and civil conspiracy. *See* ECF No. 1 (Counts 1–3).

² Institut Straumann conditionally joins ClearCorrect’s motion to dismiss to the extent that Institut Straumann’s motion under Rule 12(b)(2) is denied.

APPOINTMENT OF TECHNICAL ADVISOR

Align does not believe a technical advisor would be beneficial. Defendants ClearCorrect and Institut Straumann defer to the court on whether to appoint a technical advisor; Defendants do not oppose such an appointment.

MEET AND CONFER STATUS

Counsel for Align and counsel for Defendants met and conferred on June 14, 2024, June 19, 2024, and June 26, 2024. The Parties note that there are two pending motions to dismiss—including a 12(b)(2) motion to dismiss Align's claims against Institut Straumann for lack of personal jurisdiction. With respect to the 12(b)(2) motion to dismiss for lack of personal jurisdiction, Align has indicated that it will seek discovery in connection with the motion. Accordingly, Institut Straumann may seek the Court's guidance as to scheduling a hearing once discovery and briefing is complete in connection with the pending 12(b)(2) motion.

Dated: June 27, 2024

/s/ Brian C. Nash
Brian C. Nash (TX Bar No. 24051103)
Austin M. Schnell (TX Bar No. 24095985)
MORRISON & FOERSTER LLP
300 Colorado Street, Suite 1800
Austin, TX 78701
Tel: (512) 617-0650
Fax: (737) 910-0730
BNash@mofo.com
ASchnell@mofo.com

Daralyn J. Durie (*pro hac vice*)
Rich S.J. Hung (*pro hac vice*)
Forrest McClellen (*pro hac vice*)
Ian Bennett (*pro hac vice*)
MORRISON & FOERSTER LLP
425 Market St.
San Francisco, CA 94105

Respectfully submitted,

/s/ Melissa R. Smith (by permission)
Melissa R. Smith
Texas Bar No. 24001351
melissa@gillamsmithlaw.com
GILLAM AND SMITH, LLP
303 South Washington Avenue
Marshall, TX 75670
(903) 934-8450
Fax: (903)934-9257

Joseph J. Mueller
WILMER CUTLER PICKERING HALE AND
DORR LLP
60 State Street
Boston, MA 02109
(617) 526-6000
joseph.mueller@wilmerhale.com

Tel: (415) 268-7000
Fax: (415) 268-7522
DDurie@mofo.com
RHung@mofo.com
FMcclellen@mofo.com
IBennett@mofo.com

*Attorneys for Plaintiff Align
Technology, Inc.*

Omar A. Khan
WILMER CUTLER PICKERING HALE AND
DORR LLP
250 Greenwich Street
New York, NY 10007
(212) 230-8800
omar.khan@wilmerhale.com

Gerard A. Salvatore
Robert B. Stiller
WILMER CUTLER PICKERING HALE AND
DORR LLP
2100 Pennsylvania Avenue, NW
Washington, DC 20037
(202) 663-6000
jerry.salvatore@wilmerhale.com
robert.stiller@wilmerhale.com

Hannah Santasawatkul
Texas State Bar No. 24107617
WILMER CUTLER PICKERING HALE AND
DORR LLP
1225 17th Street, Suite 2600
Denver, Colorado 80202
(720) 274-3135
hannah.santasawatkul@wilmerhale.com

*Attorneys for Defendants
ClearCorrect Operating, LLC
ClearCorrect Holdings, Inc.*

*Limited Appearance for Defendant
Institut Straumann AG*

CERTIFICATE OF SERVICE

I hereby certify that on June 27, 2024, a true and correct copy of the foregoing document was served electronically, via ECF, on all counsel of record who are deemed to have consented to such service under the Court's local rules.

/s/ Brian C. Nash
Brian C. Nash